

June 29, 2006

VIA ELECTRONIC FILING

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 03-15
WFTE-DT (Salem, Indiana)
Facility ID No. 34167
Request for Waiver of July 1, 2006 Replication/Maximization Deadline

Dear Ms. Dortch:

Independence Television Company (“Independence”), permittee of WFTE-DT, Salem, Indiana (the “Station”), by its attorneys and pursuant to the Commission’s *Public Notice*,¹ hereby respectfully requests waiver of the Commission’s July 1, 2006 replication/maximization interference protection deadline. Due to circumstances beyond Independence’s control, the Station cannot implement its certified maximized facilities, which require a top-mounted antenna.² Instead, the Station operates with a side-mounted DTV antenna.³ As described herein, Independence believes the Station’s current operations “come close to meeting the applicable . . . requirements”⁴ by serving approximately 94.5% of the population within the

¹ See *DTV Channel Election Issues—Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, Public Notice, DA 06-1255 at 5 (rel. June 14, 2006) (“*Public Notice*”).

² Independence certified that it would operate post-transition facilities as authorized by BPCDT-19991101ACP. See FCC File No. BCERCT-20041105AZF.

³ See FCC File No. BLCDDT-20060616AAV.

⁴ *Public Notice* at 5.

certified service area.⁵ Nevertheless, because this service area falls short of that certified, Independence respectfully requests waiver to extend the deadline.

Construction of Certified Facilities Prevented

Independence seeks an extension of the July 1 deadline because it operates with a side-mounted DTV antenna rather than top-mounting it as certified. Independence fully intends to top-mount the DTV antenna at the close of the DTV transition, but tower loading prevents Independence from doing so at this time. Accordingly, the Station must operate with a side-mounted DTV antenna as specified in its June 16, 2006, license application.

With its side-mounted antenna the Station provides service to 94.5% of the certified service area population and over 126% of the Station's current analog service area.⁶ At the conclusion of the DTV transition, Independence will provide service to the entire certified service area population because it will remove its analog antenna from the top of the tower and replace it with the Station's DTV antenna. from the top of the tower

Satisfaction of Waiver Standard

Independence submits that this waiver request satisfies the standards set forth in the *Public Notice*. For reasons beyond its control, the Station cannot operate with a top-mounted antenna. In its *Second DTV Periodic Review Report and Order*,⁷ the Commission adopted a July 1, 2006 replication/maximization interference protection deadline for all DTV licensees not subject to the July 1, 2005 deadline. The Commission stated that, in cases where a station was unable to meet the applicable deadline due to "circumstances beyond a station's control," it would "grant extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown."⁸ To receive such a waiver, broadcasters were required to make a showing "similar to that required to obtain a waiver of the DTV construction deadlines."⁹ Independence believes this instant waiver request satisfies these requirements.

⁵ Specifically, the Station's current service area population is 1,662,285 persons. The certified maximized service area population is 1,759,137 persons.

⁶ The Station's NTSC Grade B contour serves 1,318,252 persons. As stated in Note 3, *supra*, the Station's current service area population is 1,662,285 persons.

⁷ Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 19 FCC Rcd 18279 (rel. Sept. 7, 2004) ("*Report and Order*").

⁸ *Id.*, ¶ 87. See also *Public Notice*.

⁹ *Report and Order*, ¶ 87.

The Station's current operations with a side mounted antenna reach approximately 94.5% of its maximized service area population. The *Public Notice* recognized that certain stations, although unable to reach 100% maximization or replication, could "come close" to meeting the applicable coverage requirements.¹⁰ The Commission requested that licensees of such stations submit the following information in conjunction with their waiver request: "(1) how close to full replication/maximization the station will be as of the deadline; (2) the reason the station is unable to comply fully; (3) the cost to the licensee and the impact on viewers if the licensee were required to comply fully; (4) whether the licensee will be able to modify its operation to comply fully after analog operation terminates (*e.g.*, relocate its DTV antenna to the top of the tower); and (5) any other relevant factors."¹¹

Independence responds to these specific inquiries as follows:

(1) with its side-mounted antenna, the Station currently serves 1,662,285 persons, or 94.5 percent of the Station's certified service area population of 1,759,137;

(2) to maintain the structural integrity of its tower, Independence must side-mount its DTV antenna;

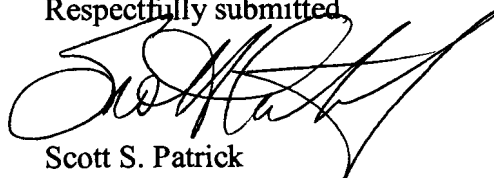
(3) if the Commission required Independence to comply fully with its certification, Independence would have to switch its DTV and analog antennas, which would cause some analog viewers to lose service;

(4) at the conclusion of the DTV transition, Independence intends to remove the Station's analog antenna from its tower, at which time it will be able to top-mount the Station's DTV antenna and provide service to the full certified service area population; and

(5) the Station's current DTV operations extend service significantly beyond the existing NTSC operations.

Based upon the foregoing, Independence believes that it has shown good cause for the Commission to grant waiver of the July 1, 2006 deadline for the Station. Should any questions arise, please contact the undersigned.

Respectfully submitted,



Scott S. Patrick

cc: Shaun Maher (FCC)

¹⁰ *Public Notice* at 5.

¹¹ *Id.*